

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 2984 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

THAKORE KANUJI LAXMANJI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Revision Application No. 2984 of 1995
MR PK JANI for Petitioner No. 1
Ms N V Joshi, APP for Respondent No. 1
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CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 27/03/2003

ORAL JUDGEMENT

The petitioner abovenamed-original informant, has
preferred this criminal revision application in order to

challenge an order dated 7.12.1995 recorded by the learned Addl.Sessions Judge, Mehsana in Criminal Misc.Application No.1180/95 under which the learned Judge directed that the contesting respondent be enlarged on bail in accordance with the terms and conditions laid down in the order. It appears that a FIR was filed before Kheralu police station being CR No.165/95 for offence punishable under section 302 of IPC. The contesting respondent made an application under section 439 of the Code of Criminal Procedure, 1973 (for short, 'the Code') for his enlargement on bail. After hearing the parties, the learned Judge granted bail as aforesaid. Feeling aggrieved by the said order, the petitioner-original informant has preferred this revision application before this court. It has been contended here that since serious offence was committed by the contesting respondent, it was not legal or proper on the part of the learned Addl.Sessions Judge to enlarge him on bail. That therefore, the said order is illegal and hence it may be quashed and set aside.

2. Rule was issued and in response to the service of rule, Ms. N V Joshi, learned APP appears for respondent No.1-State and though duly served, respondent no.2 has not made appearance before this court.

3. I have heard the learned Advocate for the petitioner and learned APP for the State. It is true that the second respondent was facing trial for offence punishable under section 302 of IPC, the accused can be convicted for death or life imprisonment. At the same time, it is also required to be considered that under section 439 of the Code, the Sessions Court has jurisdiction to enlarge an accused on bail even if he faces charge for offence under section 302 of iPC. It seems that the learned Judge has given reasons for exercising jurisdiction in favoaur of grant of bail to the contesting respondent. Even otherwise, the order was passed in December, 1995 and by now, the charge sheet must have been filed and the case must have been committed to the court of Sessions and trial may have been over. Probably, for this reason, the contesting respondent has not been appearing in the matter. Considering the passage of time, I am of the view that this is not a case for exercising revisional jurisdiction.

4. For the foregoing reasons, this revision application is dismissed. Rule discharged.

msp